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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/576,065

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Kunio Gobara

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RATNERPRESTIA

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EXAMINER

CHAU, PETER P

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,065	<b>Applicant(s)</b> GOBARA ET AL.	
	<b>Examiner</b> PETER CHAU	<b>Art Unit</b> 2419	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-158 is/are pending in the application.
- 4a) Of the above claim(s) 1-108, 110-111, 113-120, 122, 124-132, 135-136, 138-139, 142-144 and 146-154 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 121 and 137 is/are rejected.
- 7) ☒ Claim(s) 109, 112, 121, 123, 133, 134, 137, 140, 141, 145, 155, 156, 157 and 158 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 109, 112, 121, 123, 133-134, 137, 140-141 and 145 are pending in the application. Claims 1-108, 110-111, 113-120, 122, 124-132, 135-136, 138-139, 142-144 and 146-154 have been cancelled. New claims 155-158 have been added.

### ***Response to Arguments***

2. The applicant states that the specification has been appropriately amended because it contains a hyperlink, however, on page 3, lines 1-9 of the originally filed specification, the section discloses referring to non-patent reference 1 and 2, however, since the applicant has deleted the paragraph that discloses non-patent reference 1 and 2 found in the originally filed specification on page 2, lines 13-24, there is no non-patent reference 1 and 2 as disclosed on page 3 lines 1-9 of the originally filed specification. Appropriate correction is required.

The applicant states that claim 123 have been appropriately amended to overcome the rejection under 35 U.S.C. 112, second paragraph, as being indefinite for citing "the server" in the claim. However, in the amended claim 123, it recites the limitation "the server." There still is an insufficient antecedent basis for this limitation. The Examiner will interpret the limitation as reading "a server."

### ***Specification***

3. The disclosure is objected to because of the following informalities: On page 3, lines 1-9 of the originally filed specification, the section discloses referring to non-patent

Art Unit: 2419

reference 1 and 2, however, since the applicant has deleted the paragraph that discloses non-patent reference 1 and 2 found in the originally filed specification on page 2, lines 13-24, there is no non-patent reference 1 and 2 as disclosed on page 3 lines 1-9 of the originally filed specification. Appropriate correction is required.

4. The disclosure is objected to because of the following informalities: Spelling mistakes such as on page 26 line 21 of the disclosure, first is spelled incorrectly and on page 28 line 22 of the disclosure, range is spelled incorrectly. Appropriate correction is required.

#### ***Claim Objections***

5. Amended claims 109, 112, 121, 123, 133, 134, 137, 140, 141, 145, 155, 157 and 158 are objected to because of the following informalities:

6. Regarding amended claim 109, on line 28, change "...detecting the range..." to "...detecting a range..." Appropriate correction is required.

7. Regarding amended claim 112, on line 27, change "...detecting the range..." to "...detecting a range..." Also, on line 31, change "...showing the port position..." to "...showing a port position..." Also, on line 43, change "...detecting the port number..." to "...detecting a port number..." Appropriate correction is required.

8. Regarding amended claim 121, on line 12, change "...detecting the range of ports including the bubble packet..." to "...detecting a range of ports including a bubble packet..." Also, on line 14, change "...receiving the reply packet..." to "...receiving a reply

Art Unit: 2419

packet..." Also, on line 20, change "...detecting the port number..." to "...detecting a port number..." Appropriate correction is required.

9. Regarding amended claim 123, on line 12, change "...detecting the range of ports including the bubble packet..." to "...detecting a range of ports including a bubble packet..." Also, on line 14, change "...receiving the reply packet..." to "...receiving a reply packet..." Also, on line 20, change "...detecting the port number..." to "...detecting a port number..." Also, on line 24, change "...showing the port position..." to "...showing a port position..." Appropriate correction is required.

10. Regarding amended claim 133, on line 17, change "...showing the range of ports..." to "...showing a range of ports..." Appropriate correction is required.

11. Regarding amended claim 134, on line 17, change "...showing the port number..." to "...showing a port number..." Appropriate correction is required.

12. Regarding amended claim 137, on lines 1-2, change "A communication method used in the information processor..." to "A communication method used in an information processor..." Also, on line 4, change "...controlling the communication..." to "...controlling a communication..." Also, on lines 7-8, change "...leaving transmission record to the communication..." to "...leaving transmission record in the communication..." Also, on line 12, change "...detecting the range of ports including the bubble packet..." to "...detecting a range of ports including a bubble packet..." Also, on line 19, change "...detecting the port number..." to "...detecting a port number..." Appropriate correction is required.

Art Unit: 2419

13. Regarding amended claim 140, on lines 1-2, change “A communication method used in the information processor...” to “A communication method used in an information processor...” Also, on line 4, change “...controlling the communication...” to “...controlling a communication...” Also, on lines 7-8, change “...leaving transmission record to the communication...” to “...leaving transmission record in the communication...” Also, on line 12, change “...detecting the range of ports including the bubble packet...” to “...detecting a range of ports including a bubble packet...” Also, on line 18, change “...detecting the port number...” to “...detecting a port number...” Also, on line 22, change “...showing the port position...” to “...showing a port position...” Also, on lines 26-27, change “...received by the detection port information receiver” to “...received by the detection port information receiving step...” Also, on lines 29-30, change “...detected by the range detector...” to “...detected by the range detecting step...” Appropriate correction is required.

14. Regarding amended claim 141, on lines 1-2, change “A communication method used in the information processor... to “A communication method used in an information processor...” Also, on lines 7-8, change “...leaving transmission record to the communication...” to “...leaving transmission record in the communication...” Also, on line 12, change “...detecting the range of ports including the bubble packet...” to “...detecting a range of ports including a bubble packet...” Also, on line 18, change “...detecting the port number...” to “...detecting a port number...” Also, on lines 22-23, change “...showing the port position...” to “...showing a port position...” Also, on line 29, change “...detector port information receiver” to “...detector port information receiving

Art Unit: 2419

step...” Also, on line 32, change “...port number differential detector as...” to “...port number differential detecting step as...” Appropriate correction is required.

15. Regarding amended claim 145, on line 15, change “...showing the port range...” to “...showing a port range...” Also, on line 19, change “...information showing the port number...” to “...information showing a port number...” Appropriate correction is required.

16. Regarding newly added claim 155, on line 23, change “...detecting the range of ports including the bubble packet...” to “...detecting a range of ports including a bubble packet...” Also, on line 27, change “...receiving the reply packet...” to “...receiving a reply packet...” Also, on line 31, change “the port position...” to “a port position...” Also, on line 32, change “...different from the position...” to “...different from a position...” Appropriate correction is required.

17. Regarding newly added claim 157, on line 18, change “...detecting the range of ports...” to “...detecting a range of ports...” Also, on line 20, change “...receiving the reply packet...” to “...receiving a reply packet...” Also, on line 29-30, change “a range transmitter for transmitting range information, detected by the range detector as information showing the range...” to “a range transmitting step of transmitting range information, detected by the range detector receiving step...” Appropriate correction is required.

18. Regarding newly added claim 158, on line 4, change “...by the range detection packet transmitter...” to “...by the range detection packet transmitting step...” Also, on line 10, change “...by the range detector...” to “...by the range detector receiving

Art Unit: 2419

step...” Also, on lines 13 and 14, change “...by the range transmitter, range information detected by the range detector as...” to “...by the range transmitting step, range information detected by the range detector receiving step as...” Appropriate correction is required.

19. Regarding amended claims 121 and 123, they both recite the limitation "the server" in line 21 of amended claim 121 and line 21 of amended claim 123. Change "the server" to "a server" on line 21 of amended claim 121 and line 21 of amended claim 123. Appropriate correction is required.

20. Claim 123 is objected to because of the following informalities: on lines 36-38 of amended claim 123, it cites, “a port number differential detection packet transmitter...” This limitation is already cited before that limitation, on lines 19-21 of the amended claim 123. The claim does not limit/define the claim any further. Removing that limitation is highly recommended. The Examiner will not examine the limitation because it has no patentable weight since it is redundant. Appropriate correction is required.

### ***Double Patenting***

21. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422



Art Unit: 2419

F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

22. Claim 121 and 137 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 98 of copending Application No. 10/576588 in view of U.S. PGPub 2008/0215669 to Gaddy et al (hereinafter "Gaddy") and in further view of WIPO publication WO 02/082794 to Fangman et al (hereinafter "Fangman").

**As per claim 121**, copending application teaches **a first information processor communicating with a second information processor via a first communication control unit for controlling the communication of the first information processor and a second communication control unit for controlling the communication of the second information processor, the first information processor** (claim 94, preamble, lines 1-8) **comprising:**

**a bubble packet transmitter for transmitting a bubble packet for leaving transmission record in the first communication control unit to the second communication control unit via the first communication control unit** (claim 94, lines 14-16)

Art Unit: 2419

**a reply packet receiver for receiving the reply packet transmitted from the second information processor via the second communication control unit to the bubble packet transmitting port, a port of the first communication control unit, which is used in transmission of the bubble packet (claim 94, lines 21-23)**

**a port number differential detection packet transmitter for transmitting a port number differential detection packet for detecting the port number differential in the first communication control unit to the server via the first communication control unit (claim 98, lines 5-7; claim 98, lines 22-24, discloses a server receives the port number differential detection packet in a port differential information detector).**

Although, the copending application teaches a bubble packet transmitting port (claim 94, lines 21-23), the copending application is silent on **a range detection packet transmitter for transmitting a range detection packet used for detecting the range of ports including the bubble packet transmitting port.**

Borella teaches transmission of assigned range of port numbers to a node in response to a request message (Borella, abstract). The Examiner corresponds the request message to applicant's range detection packet.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the copending application to have a range detection packet transmitter for transmitting a range detection packet used for detecting the range of ports including the bubble packet transmitting port, as suggested by Borella. This

Art Unit: 2419

combination would benefit the system by informing the mobile nodes which range of ports they may use (Borella col. 4 lines 32-43).

**As per claim 137**, copending application teaches **a communication method used in the information processor of a communication system, the communication system including an information processor, a communication control unit for controlling the communication of the information processor, and a server** (claim 94, preamble, lines 1-8), **the method comprising the steps of:**

**a bubble packet transmitting step for transmitting a bubble packet for leaving transmission record to the communication control unit via the communication control unit** (claim 94, lines 14-16);

**a reply packet receiving step for receiving a reply packet transmitted to one or more ports including at least the bubble packet transmitting port** (claim 94, lines 21-23); and

**a port number differential detection packet transmitting step for transmitting a port number differential detection packet for detecting the port number differential in the communication control unit to the server via the communication control unit** (claim 98, lines 5-7; claim 98, lines 22-24, discloses a server receives the port number differential detection packet in a port differential information detector).

Although, the copending application teaches a bubble packet transmitting port (claim 94, lines 21-23), the copending application is silent on **a range detection packet**

Art Unit: 2419

**transmitting step for transmitting a range detection packet used for detecting the range of ports including the bubble packet transmitting port.**

Borella teaches transmission of assigned range of port numbers to a node in response to a request message (Borella, abstract). The Examiner corresponds the request message to applicant's range detection packet.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the copending application to have a range detection packet transmitting step for transmitting a range detection packet used for detecting the range of ports including the bubble packet transmitting port, as suggested by Borella. This combination would benefit the system by informing the mobile nodes which range of ports they may use (Borella col.. 4 lines 32-43).

This is a provisional obviousness-type double patenting rejection.

### ***Allowable Subject Matter***

23. Claims 109, 112, 123, 133, 134, 140, 141, 145, 155-158 would be allowable if the objections listed above, were overcome.

Regarding claims 109, 112, 123, 133, 134, 140, 141 and 145, the prior arts of record is silent on the subject matter pertaining to port number differential.

Regarding claims 155-156, the prior arts of record is silent on the subject matter pertaining to a range detection packet transmitter transmitting a range detection packet to the server after the transmission of the bubble packet, the range detection packet being used for detecting the range of ports including the bubble packet transmitting port,

Art Unit: 2419

the bubble packet transmitting port being a port of the first communication control unit and used for transmission of the bubble packet.

Regarding claims 157-158, the prior arts of record is silent on the subject matter pertaining to a range detection packet transmitting step of transmitting a range detection packet to the server via a range detection transmitting port, having a position different than the position of the bubble packet transmitting port, after the transmission of the bubble packet, the range detection packet for detecting the range of ports including the bubble packet transmitting port.

24. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PETER CHAU whose telephone number is (571)270-7152. The examiner can normally be reached on Monday-Friday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on 571-272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2419

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. C./

Examiner, Art Unit 2419

/Ronald Abelson/

Primary Examiner, Art Unit 2419